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UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF CALIFORNIA

LILY JEUNG, AMY SAYERS, and
DARREN WALCHESKY, on behalf of
themselves and all other similarly situated,

Plaintiffs,

vs.

YELP INC.,

Defendant.

CASE NO. 3:15-CV-02228-RS

OBJECTIONS TO DECLARATION OF
DANIEL A. BERNATH IN REPLY TO
YELP'S OPPOSITION TO MOTION FOR
PRELIMINARY CERTIFICATION

Date: July 9, 2015

Time: 1:30 p.m.

Place: Courtroom 3, Floor 17

Judge: Hon. Richard Seeborg

Pursuant to Civil Local Rule 7-3(d)(1), defendant Yelp Inc. hereby objects to the “Declaration of Daniel A. Bernath, lawyer for Plaintiffs in Reply to Yelp’s Opposition to Motion Preliminary Certification.” Dkt. No. 76.¹

As a preliminary matter, the declaration should be stricken because it does not meet the requirements of Local Rule 7-5(b) (“[D]eclarations may contain only facts, must conform as much as possible to the requirements of Fed. R. Civ. P. 56(e), and must avoid conclusions and argument. Any statement made upon information or belief must specify the basis therefor.”).

Additionally, paragraphs one through four, which attempt to establish that Mr. Walchesky signed his declaration, is lacking in foundation and is otherwise argumentative. There is no foundation for Mr. Bernath’s statement that he “saw” Mr. Walchesky sign the declaration, nor is there any statement from Mr. Walchesky that he did so.

Paragraphs five through eight are also lacking in foundation and are argumentative. There is no foundation for Mr. Bernath’s description of the state bar proceedings and other statements he makes.

The remainder of Mr. Bernath’s declaration is argumentative and violates Local Rule 7-5(b).

DATED: June 26, 2015

LAW OFFICES OF ADRIANOS FACCHETTI, P.C.

By: /s/ Adrianos Facchetti
Attorneys for Defendant,
YELP INC.

¹ Plaintiffs also filed a declaration (Dkt. No. 77), which they have associated through the ECF system with their re-noticed motions for collective certification and for sanctions. Review of this document, however, shows that it is instead plainly intended to support Plaintiffs’ later-filed *ex parte* requests (Dkt. No. 78). Yelp, therefore, shall address this declaration in its response to those requests.